

Order

Michigan Supreme Court
Lansing, Michigan

November 6, 2013

Robert P. Young, Jr.,
Chief Justice

ADM File No. 2013-19

Michael F. Cavanagh
Stephen J. Markman

Proposed Amendment of
Rule 3.602 of the
Michigan Court Rules

Mary Beth Kelly
Brian K. Zahra
Bridget M. McCormack
David F. Viviano,
Justices

On order of the Court, this is to advise that the Court is considering an amendment of Rule 3.602 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at [Administrative Matters & Court Rules page](#).

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining and deleted text is shown by strikeover.]

Rule 3.602 Arbitration

- (A) Applicability of Rule. Courts shall have all powers described in MCL 691.1681 *et seq.*, or reasonably related thereto, for arbitrations governed by that statute. The remainder of this rule applies to all other forms of arbitration, in the absence of contradictory provisions in the arbitration agreement or limitations imposed by statute, including MCL 691.1683(2).~~This rule governs statutory arbitration under MCL 600.5001-600.5035.~~
- (B) ~~Proceedings to Compel or to Stay~~Regarding Arbitration:
- (1) A request for an order to compel or to stay arbitration or for another order under this rule must be by motion, which shall be heard in the manner and on the notice provided by these rules for motions. If there is not a pending action between the parties, the party seeking the requested relief must first file a complaint as in other civil actions.
 - (2) On motion of a party showing an agreement to arbitrate ~~that conforms to the arbitration statute~~, and the opposing party's refusal to arbitrate, the court

may order the parties to proceed with arbitration and to take other steps necessary to carry out the arbitration agreement ~~and the arbitration statute~~. If the opposing party denies the existence of an agreement to arbitrate, the court shall summarily determine the issues and may order arbitration or deny the motion.

- (3) On motion, the court may stay an arbitration proceeding commenced or threatened on a showing that there is no agreement to arbitrate. If there is a substantial and good-faith dispute, the court shall summarily try the issue and may enter a stay or direct the parties to proceed to arbitration.
- (4) A motion to compel arbitration may not be denied on the ground that the claim sought to be arbitrated lacks merit or is not filed in good faith, or because fault or grounds for the claim have not been shown.

(C)-(E) [Unchanged.]

(F) Discovery and Subpoenas; ~~Depositions~~.

- (1) The court may enforce a subpoena or discovery-related order for the attendance of a witness in this state and for the production of records and other evidence issued by an arbitrator in connection with an arbitration proceeding in another state on conditions determined by the court so as to make the arbitration proceeding fair, expeditious, and cost effective. ~~MCR 2.506 applies to arbitration hearings.~~
- (2) A subpoena or discovery-related order issued by an arbitrator in another state shall be served in the manner provided by law for service of subpoenas in a civil action in this state and, on motion to the court by a party to the arbitration proceeding or the arbitrator, enforced in the manner provided by law for enforcement of subpoenas in a civil action in this state.
- (3)(2) On a party's request, the arbitrator may permit the taking of a deposition, for use as evidence, of a witness who cannot be subpoenaed or is unable to attend the hearing. The arbitrator may designate the manner of and the terms for taking the deposition.

(G)-(H)[Unchanged.]

(I) Award; Confirmation by Court. A party may move for confirmation of an arbitration award~~An arbitration award filed with the clerk of the court designated in the agreement or statute~~ within one year after the award was rendered. The

court may ~~be confirmed by the court award~~, unless it is vacated, corrected, or modified, or a decision is postponed, as provided in this rule.

(J) Vacating Award.

(1) A request for an order to vacate an arbitration award under this rule must be made by motion. If there is not a pending action between the parties, the party seeking the requested relief must first file a complaint as in other civil actions. A complaint or motion to vacate an arbitration award must be filed no later than 21 days after the date of the arbitration award.

(2)-(5) [Unchanged.]

(K)-(N) [Unchanged.]

Staff Comment: The proposed changes of MCR 3.602 would apply to all other forms of arbitration that are not described in the newly adopted Revised Uniform Arbitration Act, MCL 691.1681 *et seq.*

The staff comment is not an authoritative construction by the Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be sent to the Supreme Court Clerk in writing or electronically by March 1, 2014, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2013-19. Your comments and the comments of others will be posted under the chapter affected by this proposal at [Proposed & Recently Adopted Orders on Admin Matters page](#).



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

November 6, 2013

Clerk